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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,075

01/30/2004

Zhichen Xu

200314632-1

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03/12/2009

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EXAMINER

HOANG, HIEU T

ART UNIT

PAPER NUMBER

2452

NOTIFICATION DATE

DELIVERY MODE

03/12/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/767,075	XU ET AL.	
	Examiner	Art Unit	
	HIEU T. HOANG	2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/30/04, 08/04/05, 06/27/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the communication filed on 01/30/2004.
2. Claims 1-31 are pending and presented for examination.
3. The IDS's filed on 01/30/2004, 08/04/2005, 06/27/2007 have been considered.

Drawings

4. Figure 8 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 7 is objected to because of the following informalities: the claim recites "the at least one landmark node" on the forth line. There is no antecedent basis for this limitation. The limitation will be treated as "the at least one local landmark node". Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-20 and 25-31 are rejected under 35 U.S.C. 101 the claimed invention is directed to non-statutory subject matter.

8. Claim(s) 1-18 are rejected under 35 U.S.C. 101 as the claimed subject matter does not fall within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of *In Re Bilski* 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method including steps of ... is broad enough that the claim could be completely performed *mentally, verbally or without a machine nor is any transformation apparent*. For example, claim 1 recites three steps are feasibly performed mentally, such as determining a first distance and second distance, and determining the location for a node based on the two distances.

9. For claims 19-20, consider claim 19, the claim is related to a machine (a node). However, the means for carrying out steps in the claim body are best understood as software modules for carrying out those steps, given that no explicit hardware embodiments of these modules can be found in the specifications. Therefore, the claims are directed to non-statutory subject matter.

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10. For claims 25-31, the claims recite “computer software embedded on a computer readable medium.” The specification describes a computer readable medium as a network such as the Internet, and transmission medium such as signals in an Internet download. These are non-statutory subject matter under 35 U.S.C. 101, for they are not a tangible physical article or, object, or some form of matter.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite “randomly selecting a predetermined number of nodes.” This could mean no selection at all, making the claims vague since a predetermined number of nodes can be zero. Correction is required.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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14. Claims 1-6, 8-11, 14-16, 19-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarkar et al. (US 6,937,569, hereafter Sarkar), in view of Xu et al. (Building Topology-Aware Overlays using Global Soft-State, hereafter Xu).

15. For claim 1, Sarkar discloses a method of determining location information for a node in a network, the method comprising:

determining a first distance from the node to at least one global landmark node and determining location information for the node based on the first distance (fig. 3, col. 6 lines 1-37, find distance calculated based on metrics such as network round trip time from a node to landmark 170—global landmark);

determining a second distance from the node to at least one local landmark node proximally located to the node (fig. 3, col. 6 lines 16-44, find distance from a node to landmark 160--local landmark closer to the node); and

Sarkar does not explicitly disclose determining location information for the node based on the first distance and the second distance.

However, Xu discloses determining proximity information for the node based on the first distance and the second distance (page 1, right col., last par.; p.2, left col., first to fourth bullet point, generate proximity information of a node based on measurements of distances in terms of round trip time (RTTs) to multiple landmark nodes).

It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Sarkar and Xu to identify location information of a node

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because proximity information of a node can be used to locate the node in a network both efficiently and accurately (Xu, abstract)

16. For claims 19, 25, the claims are rejected for the same rationale as in claim 1.

17. Claim 21 is rejected for the same rationale as in claim 1. Sarkar-Xu further discloses peer-to-peer network distance measurement (see, Sarkar, fig. 3, col. 6 lines 1-37, find network distance, Xu, abstract, peer-to-peer)

18. For claim 2, Sarkar-Xu further discloses determining location information comprises determining location information associated with a physical location of the node in the network based on the first distance and the second distance (Xu, section 5 par. 2, section 5.1 par. 3-5, physical location of a node shown by landmark number is generated).

19. For claim 3, Sarkar-Xu further discloses determining location information comprises generating a landmark vector including the first distance and the second distance (Xu, section 5 par. 3-4, landmark vector).

20. For claim 4, Sarkar-Xu further discloses transmitting the landmark vector to at least one other node in the network storing landmark vectors for a plurality of nodes in

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the network (Xu, section 5.1 par. 2; page 5, right col., last par., publishing and storing map of proximity information at nodes).

21. For claim 5, Sarkar-Xu further discloses hashing at least a portion of the landmark vector to identify a location in an overlay network for storing the landmark vector (Xu, p. 5, right col., par. 2, fig. 8, hashing landmark vector to a target region in overlay space), wherein the overlay network is a logical representation of the network (Xu, p. 5, right col., par. 2, overlay); and transmitting the landmark vector to a node at the identified location to store the landmark vector (Xu, fig. 8, node p').

22. For claim 6, Sarkar-Xu further discloses determining a first distance from the node to at least one global landmark node comprises: transmitting a probe packet to the at least one global landmark node; and measuring round-trip-time to the at least one global landmark node using the transmitted probe packet (Xu, section 5.1, par. 3, latency to from a node to landmarks, section 4, par. 4 and 5, round trip time).

23. For claim 8, Sarkar-Xu further discloses determining a second distance comprises: selecting a plurality of local landmark nodes within a predetermined distance from the node; and determining distances to each of the plurality of local landmark nodes (Xu, 5.4 par. 4, localized landmarks are selected to measure distances).

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24. For claim 9, Sarkar-Xu further discloses selecting a predetermined number of nodes in the network to be global landmark nodes and local landmark nodes based on the number of nodes in the network (Xu, p. 6 table 2, number of landmarks).

25. For claim 10, Sarkar-Xu further discloses selecting a predetermined number of nodes in the network to be global landmark nodes comprises randomly selecting a predetermined number of nodes in the network to be global landmark nodes (Xu, 5.1, par. 3).

26. For claim 11, Sarkar-Xu further discloses selecting a predetermined number of nodes in the network to be local landmark nodes comprises randomly selecting a predetermined number of nodes in the network to be local landmark nodes (Xu, 5.1, par. 3).

27. For claim 14, Sarkar-Xu further discloses determining a first distance from the node to at least one global landmark node comprises determining distances to all of the global landmark nodes in the network (Xu, 5.1, par. 3).

28. For claim 15, Sarkar-Xu further discloses determining a second distance from the node to at least one local landmark node proximally located to the node comprises determining distances to each of a plurality of local landmark nodes proximally located to the node (Xu, p. 6, left col., last par.).

29. For claim 16, Sarkar-Xu further discloses the at least one local landmark node includes a plurality of local landmark nodes in a routing path between the node and the at least one global landmark node and determining a second distance comprises determining distances to each of the plurality of local landmark nodes (Xu, p. 6, left col., last par., find closest peer by distance among local peers).

30. For claim 20, Sarkar-Xu further discloses means for identifying a location in an overlay network for storing the location information using the location information, wherein the overlay network is a logical representation of the network; and means for transmitting the location information to a node at the identified location to store the location information (Xu, section 5.1, par. 4 and 5, fig. 8, store location information of node p at region z of the overlay or map).

31. For claim 22, Sarkar-Xu further discloses the memory is operable to store location information for a plurality of nodes in the peer-to-peer network that are physically close to the computer system (Xu, 5.1, par. 4).

32. For claim 23, Sarkar-Xu further discloses the processor is operable to identify a location in an overlay network for storing the location information using the location information, wherein the overlay network is a logical representation of the peer-to-peer network (Xu, 5.1, par. 4, logical overlay).

33. For claim 24, Sarkar-Xu further discloses a network interface operable to connect the computer system to the peer-to-peer network, wherein the computer system is operable to transmit the location information to the identified location in the overlay network via the network interface (Xu, 5.1, par. 2, all nodes in a region have access to the map, network interface is inherently used to communicate between nodes)

34. For claim 26, Sarkar-Xu further discloses instructions performing: identifying a location in an overlay network to store the location information using the location information, wherein the overlay network is a logical representation of the network (Xu, fig. 8, overlay or map).

35. For claim 27, the claim is rejected for the same rationale as in claim 5.

36. For claim 28, the claim is rejected for the same rationale as in claim 14.

37. For claim 29, the claim is rejected for the same rationale as in claim 15.

38. For claim 31, Sarkar-Xu further discloses the plurality of local landmark nodes are located within a predetermined distance to the node (Xu, 5.1, par. 2, nodes in a logical region have same proximity to each other).

39. Claims 7, 12, 13, 17, 18, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarkar-Xu, in view of Madruga et al. (US 2001/0034793, hereafter Madruga).

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40. For claim 7, the claim is rejected as in claim 6. Sarkar-Xu does not disclose determining a second distance from the node to at least one local landmark node comprises:

receiving an acknowledge message from the at least one local landmark node receiving the probe packet, wherein the at least one landmark node is in a routing path between the node and the at least one global landmark node; and

However, Madruga discloses the same ([0130], a router in the path can be used as a landmark and sends back an ACK)

Xu-Madruga further discloses:

determining the second distance to the at least one local landmark node in response to receiving the acknowledge message (Xu, section 5.1, par. 3, latency to from a node to landmarks, section 4, par. 4 and 5, round trip time or RTT of Xu can be used to calculate network distance upon receiving ACK)

It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Sarkar-Xu and Madruga to measure network distances to intermediate nodes and use them to estimate a node's location.

41. For claim 30, the claim is rejected for the same rationale as in claim 7.

42. For claim 12, Sarkar-Xu does not disclose selecting a predetermined number of nodes in the network to be local landmark nodes comprises: identifying nodes located near at least one gateway router or including the at least one gateway router in the network; and selecting at least one of the identified nodes to be a local landmark node
However, Madruga discloses using routers as a landmark in a peer-to-peer network

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([0130]). It would have been obvious for one skilled in the art at the time of the invention to use a router as a local landmark to simplify network topology.

43. For claim 13, Sarkar-Xu-Madruga further discloses a number of global landmark nodes in the network is less than a number of local landmark nodes in the network (Madruga, [0130], each path to global landmark has many local landmarks (routers)).

44. For claim 17, Sarkar-Xu-Madruga further discloses the plurality of local landmark nodes includes a plurality of routers in the routing path between the node and the at least one global landmark node (Xu, section 6, par. 2, routers, Madruga, routers on a path to the mesh).

45. For claim 18, Sarkar-Xu-Madruga further discloses the plurality of routers is less than a total number of routers in the routing path between the node and the at least one global landmark node (Xu, section 6, par. 2, routers, Madruga, landmark routers on a path to the mesh).

Conclusion

46. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Castro et al. US 2004/0109417.
- Lu et al. US 6,980,524.
- Zhang et al. US 2005/0060406.
- Anand et al. US 2002/0078188.
- Ogasawara. US 6,947,754.

47. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu T. Hoang whose telephone number is 571-270-1253. The examiner can normally be reached on Monday-Thursday, 8 a.m.-5 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HH

/Kenny S Lin/

Primary Examiner, Art Unit 2452